



Unit Overview

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3.1 Unit Instructions — Scope and Objectives

A. Instructions

- 1) Read the entire unit.
- 2) Complete the activities in Section 3.10, and check your answers using the answer key in Section 3.11.
- 3) Complete the unit evaluation form.

B. Scope and Objectives

As explained in Section 2.4, a traffic civil infraction proceeding begins when a police officer issues a citation to a driver. The driver’s copy of the citation serves as a summons to appear before the court and respond to the citation. MCR 4.101(A)(2).

A driver cited for a traffic civil infraction has three possible responses. Under MCL 257.743(2), the driver may:

- Admit responsibility, without explanation;
- Admit responsibility, with explanation; or,
- Deny responsibility for the civil infraction.

This unit is concerned with the magistrate’s role in cases where the defendant admits responsibility, either with or without explanation.

After completing this unit you will be able to:

- Prepare for admissions of responsibility in person, by representation, or by mail;
- Determine whether the defendant has admitted responsibility;
- Evaluate the defendant's explanation;
- Decide whether to mitigate the sanction based on the defendant's explanation; and,
- Impose appropriate sanctions.

3.2 Admissions of Responsibility without Explanation

A district court magistrate may accept an admission of responsibility for a civil infraction without explanation and order sanctions if the magistrate is so authorized by the chief district judge, presiding district judge, or only judge of the district court district. MCL 600.8512(3), MCR 4.101(D)(1)(b). Under MCL 257.745(2), defendants who wish to admit responsibility without explanation may do so by appearing before the court in one of three ways:

- In person;
- By representation; or,
- By mail.

Appearance in person is made when the defendant personally appears in court to admit responsibility. Appearance by representation is made when a defendant authorizes another person to come before the court and admit responsibility on the defendant's behalf. The defendant's representative need not be a licensed attorney.

Note: New magistrates should review their courts' practices regarding appearances by representation. A defendant need not give another person written authorization to act on his or her behalf, but the magistrate may ask for written authorization or a written admission of responsibility if the circumstances surrounding the representative appear questionable.

*Sanctions are discussed in Section 2.5. MCL 257.321a is discussed in Section 4.6.

Appearance by mail is made when the defendant returns the citation to the court with a signed admission of responsibility and/or full payment of the applicable fines and costs. MCL 257.743(4). If payment is not enclosed, the court may order appropriate sanctions as described in MCL 257.907(10)-(11) and notify the defendant of the amount due and the payment deadline. The court must also comply with the notice requirements in MCL 257.321a.* See MCR 4.101(B)(4)-(6).

*On noncompliance with a judgment, see Section 4.6.

The defendant's appearance must occur within the time specified on the citation. Failure to make a timely appearance will result in entry of a default judgment against the defendant. Noncompliance with the judgment* will result in suspension of the defendant's license, as well as other possible sanctions. MCL 257.743(4). The timeliness of a mail appearance is determined by the postmark date of the defendant's letter.

3.3 Admissions of Responsibility with Explanation

A defendant's admission of responsibility with explanation consists of the following:

- An admission of responsibility for the offense charged; and,
- An explanation of the circumstances surrounding the offense.

If a defendant admits responsibility with an explanation but then requests that the sanctions be mitigated because of extenuating circumstances, the court must enter a finding of responsibility and decide whether the defendant's circumstances warrant mitigation of the sanctions. If a defendant's admission of responsibility with explanation constitutes a legal defense to the civil infraction, the magistrate should set the matter for an informal hearing.

Note: Mitigation of sanctions does not amount to a dismissal of the citation. Thus, if the infraction is one that must be put onto a defendant's driving record, the court must still send an abstract of the judgment to the Secretary of State upon a finding of responsibility, regardless of the sanctions imposed.* Because the Secretary of State is required by statute to assess violation points on the defendant's driving record, the court has no authority to reduce the number of points the defendant will receive for an offense. See MCL 257.732, 257.320a.

*See Section 2.5(A) for a discussion of infractions that must be abstracted.

A magistrate may accept a written or verbal admission of responsibility with explanation only to the extent expressly authorized by the district judge. MCL 600.8512(1), (3) and MCR 4.101(D)(2). Therefore, it is essential that the magistrate obtain the necessary authorization to preside over admissions of responsibility with explanation.

A defendant's appearance to make an admission with explanation may take place in one of the following ways:

- Before the court, either in person or by representation; or,
- By mail.*

The following discussion outlines the steps that are involved in the foregoing types of appearances.

*MCL 257.745(3), MCR 4.101(B)(1).

3.4 Procedural Steps for Appearances in Person or by Representation

The steps involved in an admission of responsibility with explanation in person or by representation are:

- Scheduling the defendant's appearance;
- Preparing for the explanation;
- Determining whether the defendant has admitted responsibility;
- Evaluating defendant's explanation; and,

- Entering a judgment.

A. Scheduling the Defendant's Appearance

Defendants who wish to make an admission with explanation in person or by representation must contact the court in person, by mail, by telephone, or by representation to schedule an appearance date. MCL 257.745(3), MCR 4.104(B)(1)-(2). The procedure for arranging the appearance date varies from court to court. Some district courts set a specific date for the defendant's appearance; others require the defendant to appear on a "walk-in" basis by the appearance date specified on the citation. When the appearance date is arranged by telephone, the court may wish to mail to the defendant a notice confirming the appearance.

The defendant must contact the court within the time specified for response in the citation to avoid default. See MCL 257.743(4), MCR 4.101(B)(4).

Once the appearance date is set, the defendant is required to appear, either in person or by representation. Default will also be entered against defendants who fail to appear at scheduled hearings. MCL 257.748, MCR 4.101(E)(4).^{*} The contact with the court to schedule an appearance date does not itself constitute an appearance. See MCR 4.101(B)(2).

Note: When the explanation is offered by representation, the court may require the defendant to offer further explanation and/or appear in court in person.

B. Preparing for an Explanation

Magistrates should take the following six steps to prepare for an explanation:

1. Prepare Hearing Room

Magistrates need an **appropriate room** in which to hear explanations. Any room used by the magistrate to hear explanations, e.g., the magistrate's office, should project an image of professionalism and dignity.

2. Examine the File

Examine the case file for completeness. The case file will contain the court copy of the citation. It also may contain a copy of the police accident report,^{*} the defendant's driving record, previous correspondence, or, if the defendant is an out-of-state driver, the bond card or driver's license given as security under MCL 257.749. On out-of-state drivers, see Section 2.4(B).

3. Check for Material Defects

Check for **material defects** in the citation. A material defect is an error pertaining to a fact that is necessary to prove an element of the offense, or that attacks the essence of the complaint.^{*} Courts vary in their opinion as to what constitutes a material defect, and new magistrates should check with their chief judges regarding this issue.

^{*}Defaults are discussed in Section 4.5.

^{*}Accident reports are inadmissible as evidence in courts or other tribunals. MCL 257.624(2).

^{*}See Section 5.2 on the elements of traffic offenses.

New magistrates should also ask their chief judges what to do if a citation contains a material defect. The case may be dismissed without prejudice by the judge or magistrate (if the magistrate is authorized to do so), and the citing officer may reissue the citation, or move to have it reinstated.

Material defects may include:

- No signature on the citation by the citing officer.* The absence of a signature is a material defect that makes the entire citation invalid.
- Incorrect identification of the defendant.
- Incomplete identification of the offense.
- Failure to specify the location of the offense.
- Failure to specify the date of the offense, or entry of an incorrect date.

*See MCL
257.742(1),
257.727c(3), and
MCR
4.101(E)(1).

Note: A citation may contain a discrepancy between the officer's written description of the offense and the statute section number, or there may be a written description with no section number given. Another possible discrepancy is that the section number might indicate one offense, but the defendant's explanation may contain facts that make you think another offense should be charged. One approach to this problem would be to schedule an informal hearing in which testimony from both sides can be heard. After hearing testimony from both sides, the magistrate could allow the officer to amend the citation. Another approach would be to dismiss the citation without prejudice and permit the officer to reissue it with appropriate corrections. Magistrates should not amend a citation themselves without authorization from the citing officer.

4. Identify Defendant

Verify the defendant's **identity** by asking the person before you whether he or she is the individual named on the citation, or whether he or she is representing the individual named on the citation.

5. Read Charge

The magistrate should **read the charge(s)** from the citation and ask whether the defendant understands the charge(s). If the defendant does not fully understand, the magistrate must explain further to make the charge(s) clear.

6. Explain Responses

Once the defendant or defendant's representative indicates an understanding of the charge(s), the magistrate should **explain the possible responses** to the charge(s) (admission, admission with explanation, and denial) and again ask the defendant how he or she wishes to respond. Because defendants are often confused about the difference between an admission with explanation and a denial, the magistrate should make sure that the defendant understands that an admission with explanation will *not* result in dismissal of the citation; only a denial may lead to this result. Some defendants admit responsibility and accept sanctions only to dispose of the matter quickly. There is nothing wrong with

this; however, a magistrate should make clear the options that are available. If a defendant denies responsibility, the magistrate must schedule a formal or informal hearing. See MCR 4.101(E)(2).

Note: If the defendant is charged with multiple offenses on a multi-charge citation, ask if he or she has appeared to respond to the other charges. If the defendant has not appeared on the other charges, explain that a separate response is necessary for each charge. Defendants sometimes assume incorrectly that a single appearance will suffice for each charge on a multi-charge citation.

C. Determining Whether the Defendant Has Admitted Responsibility

Upon completing the foregoing steps, the magistrate should ask for the defendant's explanation and determine whether the defendant is admitting facts that constitute responsibility for the infraction.

In deciding whether the defendant is admitting facts constituting responsibility for an infraction, the magistrate must consult the statute or ordinance that creates the infraction. This statute or ordinance will describe the particular factual **elements** that comprise the infraction.* The facts contained in the defendant's admission of responsibility must correspond with the factual elements described in the statute in order to establish that the defendant committed the infraction. Listed below are the elements of coasting, a civil infraction under MCL 257.678(1):

- Defendant drove a motor vehicle on a downgrade; and,
- At that time, defendant coasted with the gears of the vehicle in neutral.

Before a defendant can be sanctioned for coasting, the behavior to which he or she admits must have been consistent with both of these elements.

Note: If a defendant purports to admit responsibility, yet the facts he or she admits to don't amount to the facts that constitute the offense, the magistrate should inquire further about the missing elements. If further inquiry does not resolve the issue, or if the police officer's testimony is needed, the magistrate should schedule a formal or informal hearing.

In some cases, the defendant's behavior may meet the statutory elements for an infraction, but other circumstances offered in explanation constitute a defense to the infraction that would excuse the defendant entirely from responsibility. The statute governing admissions with explanation,* read strictly, does not allow the magistrate to enter a not-responsible judgment or dismiss the citation in such cases. One possible solution is to again remind the defendant of his or her right to deny responsibility and to request an informal or formal hearing. The magistrate should reach a clear understanding with his or her district judge about what to do in this situation.

Note: The magistrate should distinguish between explanations that mitigate the defendant's wrongful conduct and justify a reduction in sanctions, and explanations that contest the elements of the offense or

*The elements of traffic offenses in the Michigan Compiled Laws are listed in MJI's *Traffic Benchbook - Revised Edition* (MJI, 1999). See also Section 5.2.

*MCL 257.745(3)-(4).

otherwise excuse the defendant from responsibility. The latter type of explanation should alert the magistrate to the need for an informal hearing on the issue of the defendant's responsibility. Situations where the defendant contests the elements of the offense or offers an excuse from responsibility will be further discussed in Section 5.2(C).

D. Evaluating the Defendant's Explanation

Once the magistrate has determined that the defendant has admitted responsibility for the charged infraction, he or she must decide whether to accept the defendant's explanation and consider reducing the applicable sanctions. Michigan law does not provide clear guidelines for evaluating a defendant's explanation, or for mitigating the civil sanctions imposed when a defendant is found responsible. Although magistrates rely on their own experience and sense of justice in evaluating defendants' explanations, each magistrate should have an understanding with the district judge about the court's policies to reduce sanctions for admissions with explanation.

In evaluating a defendant's explanation, the magistrate may consider the following factors:

1. The Defendant's Basic Knowledge About Driving

The magistrate should be reluctant to mitigate sanctions when the defendant's explanation does not reflect a basic knowledge of:

- The basic rules of the road;
- The additional care and caution required in inclement weather or other hazardous traffic conditions; and,
- The necessary precautions to take when driving trucks, motor homes, or motorcycles, or when towing vehicles.

Some magistrates will mitigate the fine and cost upon satisfactory completion of a driver safety education program if such a program is available in their jurisdiction.

2. The Defendant's Credibility

Magistrates should also be wary of statements that do not appear credible under the circumstances, for example:

- An unsubstantiated claim of a sudden health emergency;
- An unsubstantiated lack of familiarity with the area where the offense occurred; or,
- An unsubstantiated claim of an inaccurate speedometer.

The foregoing claims might justify a mitigation in sanctions if the magistrate is satisfied that they were made truthfully. The magistrate must often rely upon his or her "gut" feeling about the defendant when assessing credibility. Other factors to consider, however, are the defendant's ability to corroborate his or her explanation with documentation or other credible witnesses, the

*See Section 3.4(F) on the accuracy of driving records.

defendant's current driving record,* and whether the defendant's explanation offers good faith reasons for his or her behavior, rather than excuses.

3. Relevance of the Explanation

The defendant's explanation must also relate to the elements of the charged infraction. Even a credible explanation offered in mitigation of a defendant's behavior will not justify a reduction in sanctions if it is irrelevant to the charged infraction. Some defendants offer "explanations" that do not relate to the facts of the incident, such as:

- Complaints about the citing officer's discourtesy;
- Concerns about losing the driver's license;
- Concerns about repair expenses;
- Concerns about lost time from work;
- Claims of a clean driving record; or,
- Concerns about increased insurance premiums.

These sorts of "explanations" may merely be appeals to sympathy that do not justify mitigated sanctions. The magistrate should give the defendant a reasonable opportunity to "blow off steam." In the case of the discourteous officer, the magistrate might suggest to the defendant that he or she take the complaint to a more appropriate forum, such as the citing officer's police department or the city council.

4. Emergencies

Where the defendant claims that he or she violated the law in response to an emergency, the magistrate should consider whether the defendant could have avoided the "emergency" situation by more careful behavior. For example, a magistrate may be reluctant to mitigate sanctions where the defendant was speeding to avoid being late for an appointment; if the defendant scheduled the appointment in advance, he or she should have also allowed enough time to drive to it or taken other action to avoid having to violate the law.

A true emergency, if it involves extraordinary, unexpected circumstances outside the defendant's control, may operate as a complete excuse from responsibility. See Section 5.2(C) on the "doctrine of sudden emergency." Where the "emergency" does not meet the criteria for this doctrine, it might nonetheless justify a mitigation of sanctions. The decision to mitigate sanctions is a matter of discretion, for each magistrate to decide on an individual basis. Magistrates may reasonably differ as to what types of circumstances justify mitigation. Factors to consider include:

- The extent to which the driver might have been able to anticipate the emergency if he or she had been driving at a prudent speed, or at a safe following distance.
- The extent to which a distraction would interfere with a normal person's ability to focus on driving.
- The driver's awareness of his or her surroundings.

E. Entering a Judgment

After hearing the defendant's admission and explanation, if the magistrate determines that the defendant has denied responsibility, the magistrate should refuse to accept the admission as stated and have the case scheduled for an informal hearing as if the defendant had denied responsibility.

Note: The magistrate has no authority to mitigate the sanctions against the defendant by amending the charged offense so that the driver will get fewer points. If, for example, a defendant charged with driving 45 mph in a 30 mph zone (a three-point offense) admits to driving 40 mph (a two-point offense), the magistrate should treat defendant's statement as a denial and schedule an informal hearing.

When the defendant has admitted responsibility for the offense, the magistrate should, after evaluating his or her explanation, enter a judgment that finds him or her responsible for the citation and impose the appropriate sanction.* If the magistrate does not mitigate the sanctions, then the usual sanctions are imposed. If, on the other hand, the magistrate finds the defendant's explanation worthy of consideration, he or she may decide how much the defendant's sanctions may be reduced from the fines and costs schedule.

Note: The magistrate has no authority to assess a fine or costs without entering an accompanying finding of responsibility and, in appropriate cases, abstracting the judgment for the Secretary of State. A civil fine may not be waived unless costs ordered are also waived. MCL 257.907(4).

The magistrate's judgment is entered on Form CIA 02, *Judgment*, or by way of a computerized form.* The original judgment should be filed with the court and a copy given to the defendant.

*Sanctions are discussed in Section 2.5.

*Form CIA 02 is found in the Reference Section.

F. Taking Judgments Under Advisement

The magistrate's authority comes from statute, court rule, and the chief judge. A judge has no power to authorize a magistrate to do anything that is not permitted by statute or court rule. No Michigan statute or court rule permits a court to take a traffic civil infraction case "under advisement" for a period of time for the purpose of dismissing the violation if the driver receives no further citations. Nonetheless, despite this absence of legal authority, taking matters "under advisement" is a common practice in some courts, and disallowed in others.

A request to take a matter "under advisement" is often considered in conjunction with a review of the person's driving record. Please note, however, that a matter previously and successfully completed "under advisement" will not be reflected on the person's driving record. Moreover, audits have determined that some courts do not even check the person's driving record for prior convictions or prior matters taken "under advisement" in their own court.

The State Court Administrator's Office published the following comments regarding this practice in the October 1998 issue of the *Michigan Supreme Court Report*:

“The SCAO has been encouraged to work with the courts to discontinue the practice of not reporting traffic violation convictions to the Department of State, and to determine the appropriate disposition of fines, fees, and costs when traffic violation convictions are later dismissed.

“The recommendations were published in a recent audit by the Office of the Auditor General, which reviewed the reporting of driver license points and the collection and disposition of fines and fees. In part, the audit addressed the practice of taking traffic cases ‘under advisement.’

“The SCAO recommends that courts discontinue the practice of taking matters under advisement. All convictions must be reported to the Department of State pursuant to MCL 257.732. Without specific statutory authority, programs that provide for payment of fines, fees, or costs without entry of a conviction or report of the conviction to the Department of State must be amended to eliminate payments.

“Locally, the practice of taking matters under advisement may also be known by such terms as: delayed sentencing; deferred sentencing; diversion; auditing; dismissal with costs; or administrative review. Use of these programs is not uniform, resulting in a perception of inconsistent application of justice. Failure to submit conviction abstracts compromises the accuracy and integrity of Michigan driving records and is a public safety issue.

“Chief judges are urged to review the following statutory provisions, ethics opinion and attorney general’s opinion regarding this matter:

- Judicial Ethics Opinion JI-117, January 9, 1998;
- Attorney General Opinion 6995, September 16, 1998;
- MCL 257.6b; MSA 9.1806(2); Definition of a civil infraction determination;
- MCL 257.8a; MSA 9.1808(1); Definition of a conviction;
- MCL 257.732 MSA 9.2432; Requirement to abstract convictions, bond forfeitures, civil infraction determinations, and civil infraction default judgments;
- MCL 257.745; MSA 9.2445; Procedure for admitting or denying responsibility for a civil infraction;
- MCL 257.746; MSA 9.2446; Procedure for entering a judgment of responsibility after informal hearing;
- MCL 257.747; MSA 9.2447; Procedure for entering a judgment of responsibility after formal hearing; and
- MCL 257.907; MSA 9.2607; Procedure for assessment of fines, costs and fees only after a person is determined responsible or responsible with explanation after hearing or after default.”

Similar comments appeared in the September 1990 issue of the *Michellaneous Memo*:

“Some courts have a practice of taking civil infraction cases ‘under advisement’ when an offender admits responsibility. While there appears to be no statutory authority to provide for this practice, it is very common in some courts while not allowed in others. This situation results in confusion for litigants and leads to a perception that all citizens do not have access to equal justice.

“Some courts limit taking civil infractions under advisement to special cases. Other courts have allowed the process to become so common that the officer (when issuing the citation) or the court clerk (when the offender contacts the court) advises the offender that s/he may request an admission to be taken under advisement.

“This practice, regardless of the intentions, negatively impacts the accuracy and integrity of Michigan driving records. Under this procedure, no conviction abstract is submitted to the Department of State. If the offender is not convicted of additional offenses for a specified time period, the citation is dismissed. Consequently, a driver may have several violations under advisement in different courts, or in some cases the same court, and eventually have all of the citations dismissed because no violation was ever submitted for entry to the driving record. As a result, a problem driver could remain on the road with an unblemished driving record.

“While the judiciary has broad discretion over procedural matters, implementation of practice and procedure is controlled by the Michigan Court Rules. To date, neither the Michigan Court Rules nor statute provide for this procedure. Standards relating to driving privileges and traffic safety are set by the Legislature. We recommend that courts discontinue the use of the ‘under advisement’ procedure.

“Courts are urged to review the following statutory provisions regarding this matter: MCL 257.6b; MSA 9.1802(2); MCL 257.8a; MSA 9.1808(1); MCL 257.732; MSA 9.2432; MCL 257.745; MSA 9.2445; MCL 257.746; MSA 9.2446; MCL 257.747; MSA 9.2247; MCL 257.907; MSA 9.2607.”

3.5 Procedural Steps for Mailed Appearances

When the defendant timely appears by mail, the magistrate may accept the admission with explanation as if the defendant had appeared personally in court. However, if the defendant’s mailed explanation is unclear, or if it does not clearly admit responsibility, the magistrate may require the defendant to provide further explanation at a court appearance. MCL 257.745(2) and (4).

The steps involved in accepting an admission of responsibility with explanation by mail include:

- Examining the case file;
- Determining whether the defendant has admitted responsibility; and,
- Entering judgment.

*Accident reports are inadmissible as evidence in courts or other tribunals. MCL 257.624(2).

*See Sections 4.5-4.6 on defaults and noncompliance with judgments.

*Sample letters from defendants appear in Section 3.7.

A. Examining the Case File for Completeness

The case file will contain the court copy of the citation and the defendant's letter of explanation, accompanied by the defendant's signed civil infraction copy of the citation. The file may also contain a copy of the police accident report,* the defendant's driving record, or, if the defendant is an out-of-state driver, the bond card or driver's license given as security under MCL 257.749. On out-of-state drivers, see also Section 2.4(B).

In reviewing the case file, the magistrate should first **examine the appearance date**. If the defendant's letter of explanation is not postmarked by that date, a default judgment of responsibility may be entered. MCL 257.743(4), 257.748, and MCR 4.101(B)(3).*

Note: Court practice varies on whether the magistrate or the court's clerical staff enters a default judgment against a defendant who fails to timely respond to a traffic citation. Court practice also varies as to when a default judgment will be entered. The magistrate is responsible for establishing the policy for entering defaults, in conjunction with the district judge. In courts with automation, defaults are produced automatically after the expiration of the statutory time limit for response. In such courts, the magistrate should not consider a defendant's untimely letter of explanation if the case file or computer record also reflects a judgment of default.

Next, the magistrate should **check for material defects** in the citation. See the discussion on what constitutes a material defect at Section 3.4(B)(3).

After checking for material defects, the magistrate should **compare the contents of the mailed explanation with the citation**. The magistrate should verify that the letter and the citation refer to the same offense and offender, and to the same time, location, and offending vehicle. The defendant should sign his or her copy of the citation. If a defendant mails a copy of the citation to the court without signing it, yet provides a letter of explanation, the magistrate should check the court's policies to determine what action to take.

B. Determining Whether the Defendant Has Admitted Responsibility

Once the magistrate has found that the case file is complete, he or she should determine whether:

- The defendant is admitting facts that constitute responsibility for the offense; and,
- The defendant is offering an explanation in mitigation of the civil sanctions.

See Section 3.4(C)-(D) for a general discussion of principles to follow in making the foregoing determinations.

Mailed admissions of responsibility with explanation pose special problems not present where the defendant or representative for the defendant appears before the court.* Defendants usually are not attorneys — they are not trained

or experienced in the legalities of admissions, denials, or admissions with explanations. A defendant's explanation may be ambiguous, or the written admission with explanation may fall short of the legal requirements for an admission. The defendant may not understand the difference between an admission with explanation and a denial and may send the court a written defense to the infraction with the expectation that the court will render a decision on responsibility. In these situations, the magistrate does not have the advantage of the defendant's presence in the hearing room to answer clarifying questions.

Where the defendant's admission with explanation is unclear or defective, the magistrate has the following options, depending on the court's time and staff constraints, and the district judge's preferences:

- Mail a notice to appear in court regarding the letter of explanation.
- Mail the defendant a judgment of responsibility, informing him or her of the procedures for withdrawing the admission under MCR 4.101(G)(3).
- Schedule an informal hearing.
- Send the defendant a letter of non-acceptance of the admission with explanation, advising the defendant to submit a revised response to the citation by a stated time deadline. The letter should also inform the defendant of the particular sanction that may be imposed, and of the consequences of failure to reply within the time deadline. An example of such a letter is shown in Section 3.8.

C. Entry of Judgment

After evaluating a mailed explanation, the magistrate should prepare a judgment to be sent to the defendant.

If the defendant sent payment along with his or her mailed explanation, the payment should be applied to the fine and cost upon entry of judgment. If a balance is still owed, the mailed judgment should indicate the balance due. If the payment is too much, the excess amount should be deposited into the court's bond account, and the difference refunded by mail.

Note: The magistrate should determine the court's policy regarding situations where the defendant includes payment with the mailed explanation, and the explanation results in the scheduling of an appearance or hearing. The court may either: (1) return the check with the notice to appear; or, (2) deposit the payment to the bond account pending the outcome of the hearing.

3.6 Post-Judgment Proceedings

After a judgment is entered, the case file should be given to the court clerk, who is responsible for preparing the judgment abstract, Form DS1-22, *Abstract of Conviction*, to be sent to the Secretary of State.* Judgment abstracts may also be sent electronically. MCL 257.732 contains the requirements for filing

*See Section 2.5(A) on convictions that must be abstracted.

judgment abstracts in civil infraction cases. The number of points assessed for a traffic violation is set forth in MCL 257.320a.

Once the day's proceedings are concluded, all case files should be returned to the court clerk. If a magistrate so desires, he or she can keep a record of daily and quarterly activities on SCAO Form DC 21, *Magistrate's Daily Report*, and on DC 22, *Magistrate's Quarterly Report*.

Note: Daily and quarterly reporting on SCAO Forms DC 21 and 22 are no longer required under MCR 8.205(A)(2), a rule deleted in 1999. However, magistrates may still be required by their chief judges to keep track of their daily and quarterly activities, or they may voluntarily choose to do so. For these reasons, copies of SCAO Forms DC 21 and 22 are provided in the Reference Section.